

**Draft Amendments to:
Article 5. Electricity Generation Source Disclosure**

For discussion at July 14, 2000 Energy Commission Workshop

The following sections contain amendments that staff is proposing for the SB 1305 rulemaking. Deletions are marked in strike-out, and additions are underlined. Sections that we are not proposing to change are not included (one exception, however, is that staff is proposing to substitute the term "retail provider" for "retail supplier"). In addition, there is a short discussion of specific issues in several sections; these are marked in bold and italics.

§ 1390: *no changes*

§ 1391. Definitions

(a) "Claim that identifies any of a retail ~~supplier's~~ provider's electricity sources as different from net system power" or "claim of specific purchases" means any statement that is made to consumers by a retail ~~supplier~~ provider for the purpose of marketing any electricity product and that contains either:

(1) a reference to the type of fuel used to generate the electricity product offered for sale by the retail ~~supplier~~ provider, other than disclosure of net system power; or

(2) a reference to use of an eligible renewable to generate, in part or in whole, the electricity product offered for sale by the retail ~~supplier~~ provider, other than disclosure of net system power; or

(3) a statement that ~~either~~ a specific attribute of the electricity product ~~or of its use~~ creates an environmental effect.

(b) – (l): *no changes*

(m) "Pool" means an entity into which multiple generators offer to sell their power and out of which multiple retail providers may offer to purchase power, such that buyer and seller have no knowledge of each other's identities, and the amount of power sold into the pool equals the amount of power purchased from the pool in a given calendar year.

(m) – (n): *no changes*

(~~op~~) "Retail supplier" or "retail provider" means an entity that offers an electricity product for sale to retail consumers in California.

(p): *no changes*

(qr) Specific purchase means a transaction in which the sale of electrical energy is traceable to specific generating facilities and which provides commercial verification that the generating facilities claimed have generated electrical energy that has been sold once and only once to retail consumers.

(r): *no changes*

§ 1392. Generation Disclosure

(a): *no changes*

(b) Content and Format of Submissions to the System Operator

(1) General Information:

(A) - (B): *no changes*

(C) For each generating facility that generates electrical energy consumed in California, the generating facility name, location, either by street address or by longitude and latitude, and an identification number provided by the ~~Western Systems Coordinating Council~~ U.S. Energy Information Agency, or, in the event that the ~~Western Systems Coordinating Council~~ U.S. Energy Information Agency does not provide an identification number to the generating facility, by the Energy Commission.

(c): *no changes*

(d) The following requirements apply to generation and fuel information that is reported for any generation that is sold in an electricity product for which a claim of specific purchases is made.

(1): *no changes*

(2) If generation or fuel information for electrical energy that is sold in an electricity product for which a claim of specific purchases is made is not reported pursuant to subsection (a) of this section, the generator shall report electronically the information specified in subsection (d)(2)(A) - (C) of this section to the Energy Commission by March 1 of each year beginning in 1999 for each generating facility that generated such electrical energy in California. If the information is provided to the Energy Commission in another filing, the generator may submit a statement identifying the filing and section of the filing in which the information is contained in lieu of a separate filing pursuant to this subsection.

(A) General Information:

1. – 2.: *no changes*

3. For each generating facility, the generating facility name, location, either by street address or by longitude and latitude, and an identification number provided by the ~~Western Systems Coordinating Council~~ U.S. Energy Information Agency, or, in the event that the ~~Western Systems Coordinating Council~~ U.S. Energy Information Agency does not provide an identification number to the generating facility, by the Energy Commission.

(B) - (C): *no changes*.

(3): *no changes*

§ 1393. Retail Disclosure to Consumers

(a) - (b): *no changes*

(c) Each retail ~~supplier~~ provider shall disclose the information required in this section to consumers according to the following schedule:

(1) Marketing disclosures shall be provided in all product-specific written promotional materials that are distributed to consumers, as defined in subsection (m) of section 1391 of these regulations.

(2) Quarterly disclosures shall be provided ~~in writing~~ by mail to consumers of the electricity product by the end of the first complete billing cycle for each quarter, beginning with the January 1999 quarter, using the power content label. For purposes of this section, quarters shall begin in January, April, July, and October of each year.

(2) Annual disclosures shall be provided ~~in writing~~ by mail to consumers of the electricity product and to the Energy Commission on or before April 15 of each year beginning in 1999.

(d) –(e): *no changes*

§ 1394. Annual Submission to the Energy Commission

Existing § 1394 would be deleted in its entirety, and the following new language added.

(a) Retail Provider Report.

(1) On or before March 1 of each year, each retail provider who made a claim of specific purchases during the previous calendar year shall provide a filing to the Energy Commission, providing the information identified in subsections (a)(2)(A) — (D) below for each electricity product for which such a claim was made.

(A) Retail providers must provide this information on spreadsheet forms provided by the Energy Commission, and each page must include the Retail Energy Supplier Registration Identification number provided by the California Public Utilities Commission or, if one is not provided, a unique identification number assigned by the Energy Commission.

(B) The retail provider must submit one paper copy, with an original signature, and, if feasible must also submit the information electronically.

(C) The report must include an attestation, signed by the retail provider under penalty of perjury, that the kilowatt hours claimed by the retail provider as a specific purchase during the previous calendar year were sold once and only once to retail customers of that retail provider, and that the information provided in the report is true and correct.

(D) All fuel type information shall be provided using the fuel type categories identified in subsection (d)(1)(B) of section 1393.

(2) Informational Requirements.

(A) Purchases

1. For each source of electrical energy and/or associated fuel type which is not from a pool and which the retail provider is claiming as a specific purchase, the retail provider must include the following information: facility name, facility number provided by the U.S. Energy Information Agency, or, if one is not provided a unique identification number assigned by the Energy Commission, fuel type, certificate number (if applicable), facility address, telephone number and contact person, gross kilowatt hours purchased, kilowatt hours resold or consumed on site, and the resultant calculation of net purchases. This information shall include the serial number of any Genreport certificate used to support a claim of specific purchases. This information shall be provided on the current version of Schedule 1 prepared by the Energy Commission.

2. Pool purchases

a. Retail providers who are claiming specific purchases based on purchases of electrical energy and/or associated fuel type from a pool must include the following information: pool name, pool identification number assigned by the Energy Commission, fuel type, gross kilowatt hours purchased, kilowatt hours resold or consumed on site, and the resultant calculation of net purchases. This information shall be provided on the current version of Schedule 1 prepared by the Energy Commission.

b. Retail providers who are claiming specific purchases based on purchases of electrical energy and/or associated fuel type from a pool must reference a filing made no later than March 1 of the current calendar year to the Energy Commission from the pool that includes the following information:

i. For each generator that sold electrical energy into the pool, the facility name, facility number provided by U.S. Energy Information Agency or, if one is not provided a unique identification number assigned by the Energy Commission, fuel type, and total number of kilowatt hours sold into the pool. This information shall be provided on the current version of Schedule 3 prepared by the Energy Commission.

ii. For each sale from the pool, the amount of kilowatt hours purchased by each purchaser by fuel type. If the purchaser is also a retail provider, include the Retail Energy Supplier Registration Identification number provided by the California Public Utilities Commission or, if one is not provided, a unique identification number assigned by the Energy Commission. This information shall be provided on the current version of Schedule 4 prepared by the Energy Commission.

(B) Retail Sales: The retail provider filing shall include each product name, the kilowatt hours sold for each product from specific purchases, by fuel type for specific purchases, and the kilowatt hours sold for each product from sources other than specific purchases. This information shall be provided on the current version of Schedule 2A prepared by the Energy Commission.

(C) Comparison of Purchases and Sales: The retail provider filing shall include total net purchases, consistent with subdivision (a)(2)(A) above, minus total sales for all products, consistent with subdivision (a)(2)(B) above, and an explanation of any discrepancies between total net purchases and total sales.

This information shall be provided on the current version of Schedule 2B prepared by the Energy Commission.

(D) Power Content Label: The retail provider shall provide to the Energy Commission a copy of each quarterly label provided to customers pursuant to subsection (c)(2) of section 1393, and a copy of each promotional disclosures provided to customers pursuant to subsection (c)(1) of subsection 1393 that varies from any quarterly disclosure provided in that calendar year

(b) By June 1 of each year, any retail provider who made a claim of specific purchases during the previous calendar year shall provide a report prepared by an auditor who has conducted the procedures identified in Appendix C of these regulations. The report shall contain a summary of the results of the procedures, and a copy of the annual power content label provided pursuant to subsection (c)(3) of section 1393, and a proof of service of the annual power content label and the quarterly labels for the previous calendar year upon all customers.

In March 2000, the Commission provided copies of a protocol for independent third-party verification for use in both the SB 1305 and SB 90 programs. This draft proposes to adopt an Appendix that specifies the major elements of this protocol. In addition, the Committee is willing to discuss whether the independent third-party verification requirement should be reconsidered.

(c) The Energy Commission may on its own motion, or as a result of a request from a member of the public or other agency, investigate electricity transactions claimed as specific purchases to determine whether the transactions are traceable to specific generating facilities and whether they provide commercial verification that the electricity source claimed has been sold once and only once to retail consumers. In conducting its investigation, the Energy Commission may require the production of commercial documents, such as contracts, invoices, the report prepared pursuant to subsection (b) of this section, and attestations.

Attachment 2

The Committee is willing to discuss potential modifications to the Power Content Labels that are currently specified in the SB 1305 regulations. This workshop notice includes one proposal made by SMUD and one proposal made by staff. If parties have additional changes or suggestions, we encourage them to submit their examples in written comments prior to the workshop. We will address all proposals at the workshop.

Per current regulation

POWER CONTENT LABEL		
ENERGY RESOURCES	Product Name* (projected)	1999 CA Power Mix** (for comparison)
Eligible Renewable	12%	12%
-- Biomass & waste	2%	2%
-- Geothermal	5%	5%
-- Small hydroelectric	3%	3%
-- Solar	<1%	<1%
-- Wind	2%	2%
Coal	20%	20%
Large Hydroelectric	20%	20%
Natural Gas	31%	31%
Nuclear	16%	16%
Other	1%	1%
TOTAL	100%	100%
*0% of Product Name is specifically purchased from individual suppliers.		
**Percentages are estimated annually by the California Energy Commission based on the electricity sold to California consumers during the previous year.		
For specific information about this electricity product, contact Company Name . For general information about the Power Content Label, contact the California Energy Commission at 1-800-555-7794 or www.energy.ca.gov/consumer .		

Staff Proposal

(same product)

POWER CONTENT LABEL		
ENERGY RESOURCES	Product Name (projected)	Generic Mix* (for comparison)
Eligible Renewable	--	12%
-- Biomass & waste	--	2%
-- Geothermal	--	5%
-- Small hydroelectric	--	3%
-- Solar	--	<1%
-- Wind	--	2%
Coal	--	20%
Large Hydroelectric	--	20%
Natural Gas	--	31%
Nuclear	--	16%
Other	--	1%
Generic Mix*	100%	--
TOTAL	100%	100%
*The California Energy Commission estimates Generic Mix annually, based on statewide use in the preceding year. Actual mix may vary locally.		
For specific information about this electricity product, contact Company Name . For general information about the Power Content Label, contact the California Energy Commission at 1-800-555-7794 or www.energy.ca.gov/consumer .		

Per current regulation

POWER CONTENT LABEL		
ENERGY RESOURCES	Product Name* (projected)	1999 CA Power Mix** (for comparison)
Eligible Renewable	56%	12%
-- Biomass & waste	11%	2%
-- Geothermal	12%	5%
-- Small hydroelectric	12%	3%
-- Solar	10%	<1%
-- Wind	11%	2%
Coal	10%	20%
Large Hydroelectric	10%	20%
Natural Gas	16%	31%
Nuclear	8%	16%
Other	0%	1%
TOTAL	100%	100%
*0% of Product Name is specifically purchased from individual suppliers.		
**Percentages are estimated annually by the California Energy Commission based on the electricity sold to California consumers during the previous year.		
For specific information about this electricity product, contact Company Name . For general information about the Power Content Label, contact the California Energy Commission at 1-800-555-7794 or www.energy.ca.gov/consumer .		

Staff proposal
(same product)

POWER CONTENT LABEL		
ENERGY RESOURCES	Product Name* (projected)	Generic Mix** (for comparison)
Eligible Renewable	50%	12%
-- Biomass & waste	10%	2%
-- Geothermal	10%	5%
-- Small hydroelectric	10%	3%
-- Solar	10%	<1%
-- Wind	10%	2%
Coal	--	20%
Large Hydroelectric	--	20%
Natural Gas	--	31%
Nuclear	--	16%
Other	--	1%
Generic Mix**	50%	--
TOTAL	100%	100%
*Percentages describe electricity generated for the regional power system in quantities equal to your use of Product Name .		
**The California Energy Commission estimates Generic Mix annually, based on statewide use in the preceding year. Actual mix may vary locally.		
For specific information about this electricity product, contact Company Name . For general information about the Power Content Label, contact the California Energy Commission at 1-800-555-7794 or www.energy.ca.gov/consumer .		

POWER CONTENT LABEL			
ENERGY RESOURCES	1998 SMUD GENERATION & SPECIFIC PURCHASES*	1998 SMUD POWER MIX**	1998 CA POWER MIX*** (for comparison)
Eligible Renewable	10%	8%	11%
-- Biomass & waste	2%	2%	2%
-- Geothermal	5%	4%	5%
-- Small hydroelectric	2%	2%	3%
-- Solar	<1%	<1%	0%
-- Wind	<1%	<1%	1%
Coal	0%	7%	20%
Large Hydroelectric	57%	54%	22%
Natural Gas	33%	27%	31%
Nuclear	0%	3%	16%
Other*	0%	0%	0%
TOTAL	100%	100%	100%
<p>* 63% of system power is SMUD-generated or specific purchases.</p> <p>** Includes SMUD generation and specific purchases plus 37% market purchases using CEC assumptions of CA and NW power mix percentages.</p> <p>*** Percentages are estimates annually by the California Energy Commission based on electricity sold to California consumers during the previous year.</p>			

For specific information about this electricity product, contact
Company Name. For general information about the Power Content
Label, contact the California Energy Commission at 1-800-455-7794.

**Draft Regulatory Language For
Energy Commission Certificate Program**

- (1) This subsection describes the Energy Commission certificate program, in which a retail provider may use certificates created by the current version of the Energy Commission software program Genreport (Genreport certificates) to demonstrate that he or she has purchased the right to claim a specified quantity of generation of a specified type of fuel or technology from a specified facility.
- (2) The Energy Commission certificate program shall consist of the following elements:
- (A) The Energy Commission will make available to all generators within the WSCC the current version of the Genreport software program created by the Commission. This program creates facility-specific Genreport certificates that contain the following information: the serial number of each Genreport certificate issued, the kWh associated with each Genreport certificate, the name of the generator, the generating facility identification number provided by the Energy Information Agency or, if one is not provided, a unique identification number assigned by the Energy Commission, the quarter in which the electrical energy identified on the Genreport certificate was generated, the type of fuel or technology used to generate the electrical energy, and a signature block for the generator.
- (B) Each generator that wishes to obtain a copy of the Genreport software shall provide to the Energy Commission the following information: the generating facility identification number provided by the Energy Information Agency or, if one is not provided, a unique identification number assigned by the Energy Commission, the address of the generating facility, the name and telephone number of a designated contact for the generator, and the fuel or technology type and capacity of the generating facility. After receipt of this information, the Energy Commission will provide a copy of Genreport and a series of Genreport certificate numbers to be used for each generating facility identified by the generator.
- (C) Each retail provider that owns a Genreport certificate may use that certificate to support a claim of specific purchases in its annual retail provider report pursuant to the terms of this program. The retail provider shall include the serial number of the Genreport certificates created under the Energy Commission certificate program for generation being claimed.
- (D) In the annual report prepared pursuant to Public Utilities Code/398.5(e), the Energy Commission will find that Genreport certificates issued pursuant to this program verify that the retail provider who provided the Genreport certificates has purchased the right to claim the quantity of generation of the type of fuel or technology type from the specific facility identified on the Genreport certificates, provided the generator has done all of the following:

- (i) Use Genreport to create one Genreport certificate for each executed contract for the sale of kilowatt hours of electricity and/or associated fuel or technology characteristic from the generating facility identified in the Genreport certificate, and sign the Genreport certificate under penalty of perjury. The total amount of generation in each quarter must be equal to or greater than the amount of kilowatt hours identified in the Genreport certificates issued in that quarter.
- (ii) Provide the following information to the Energy Commission no later than the fifteenth day after the end of each quarter: total generation during the previous quarter of each facility identified by the participating generator, the serial numbers of all Genreport certificates created by the generator during the previous quarter for each facility, and the amount of kilowatt hours identified in each such Genreport certificate.
- (iii) Provide, upon Energy Commission request, independent third-party readings of the facility meter.

**Draft Regulatory Language For
Agreed-Upon Procedures**

- (a) This Appendix describes the agreed-upon procedures that retail providers claiming specific purchases shall use to comply with the requirements of subsection (b) of section 1394 of these regulations. These procedures shall be performed for all electricity products for which a claim of specific purchases was made during the previous calendar year. The procedures in section (c)(1), (c)(2) and (c)(3) of this Appendix are applicable to all transactions. The procedures described in section (c)(4) are also applicable to transactions in which the purchase of electrical energy is traced from a generating facility to a retail customer through a pool/wholesaler.
- (b) The retail provider must engage an independent accountant or certified internal auditor to perform the procedures identified in subsection (3) below in accordance with the American Institute of Certified Public Accountants (AICPA) Statements on Standards for Attestation Engagements, Section 600 or under Statements on Auditing standards, Section 622. The accountant shall provide a report to the Energy Commission no later than June 1 of each year summarizing the results of the procedures.
- (1) The accountant must be a member in good standing with the American Institute of Certified Public Accountants or a member in good standing with and certified as an Internal Auditor with the Institute of Internal Auditors.
- (2) The accountant or auditor may use sampling techniques following the guidance set forth in the AICPA AU Section 350, *Audit Sampling*, provided that the sample size is determined using a confidence level of 90 percent, a tolerable deviation of 10 percent, and an expected deviation rate of 3 percent, and the total population size is determined. Additionally, the program participant will need to determine the population size (estimates are acceptable). The sample size shall be determined by using a statistical sampling program, and sample selection shall be made on a random basis using a random number generator. In any event, no more than 50 percent (50%) of the selected transactions may relate to any one month unless more than 50 percent (50%) of the population relates to the same month. All parameters and deviations used and the sample size must be described in the report. If the accountant chooses not to use sampling techniques, testing of 100 percent (100%) of the population must be performed.
- (c) Agreed-Upon Procedures
- (1) Purchases: The auditor shall review the information used to prepare Schedules 1 and 2B, and all copies of contracts, certificates and invoices necessary to perform the procedures identified below.

(A) The auditor shall agree the purchases by facility name, fuel or technology type, certificate numbers and kilowatt hours from the information used to prepare Schedule 1 to Schedule 1 for those specific purchases that were not purchases from a pool. The auditor shall also test the mathematical accuracy of Schedule 1, noting any exceptions.

(B) The auditor shall select a sample of purchases from the information used to prepare Schedule 1 using the sampling guidelines discussed in subsection (b)(2), and for each purchase in the sample perform the following procedures, noting any exceptions:

(i) Agree the generation facility ID number, certificate number or the name of the Wholesaler/Pool, as applicable, kilowatt hours and the fuel type from the invoice (or from the Energy Commission) to the information used to prepare Schedule 1.

(ii) For facilities owned by the retail provider, agree the kilowatt hours with meter readings made by an independent third party, or confirm that the retail providers has another internal auditing procedure that assures facility production agrees to production claims.

(iii) Agree the date of generation from the invoice to the reporting period of the information used to prepare Schedule 1.

(C) The auditor shall agree the kilowatt hours resold or consumed by fuel type from the information used to prepare Schedule 2B to Schedule 2B, noting any exceptions. The auditor shall also test the mathematical accuracy of Schedule 2B, noting any exceptions.

(D) The auditor shall select a sample of resale transactions, using the sampling guidelines, from the information used to prepare Schedule 2B, and for each resale transaction in the sample perform the following procedures, noting any exceptions:

(i) Agree the kilowatt hours sold by generation facility ID number and by fuel type from the invoice to the information used to prepare Schedule 2B.

(ii) Agree the date of generation from the invoice to the reporting period of the information used to prepare Schedule 2B.

(E) The auditor shall agree the net kilowatt hours purchased shown on Schedule 1 to net purchases shown on Schedule 2B. Note as an exception if any explanation of the difference in net purchases and sales was improperly excluded.

(2) Sales: The auditor shall review the information used to prepare Schedule 2A. In addition, the auditor shall review all copies of billing statements necessary to perform the procedures identified below.

(A) Agree sales by fuel type and by product from the information used to prepare Schedule 2A to Schedule 2A. The auditor shall also check the mathematical accuracy of Schedule 2A.

(B) Select a sample of sales, using the sampling guidelines, from the information used to prepare Schedule 2A and agree the sales to customers by fuel type and product to the billing statement.

(3) Labels: The auditor shall review the annual power content label provided to customers for each product pursuant to subsection (e)(7) of section 1393. The auditor shall calculate the fuel and technology mix of the total annual retail sales for the product using the information provided in Schedule 2A and the equation found in subsection (d)(1)(C) of section 1393. The auditor shall then compare these calculated percentages to those identified for the actual power mix on the annual label. The auditor shall note any exceptions greater than 1%, whether a footnote was provided for products for which any of the absolute values of the difference of each fuel type percentage between that actual mix identified on the power content label and any projected mix provided on any power content label is greater than five percentage points per subsection (d)(2)(A&B).

(4) Pools:

(A) Purchases: The auditor shall review the information used to prepare Schedule 3 and copies of contracts, certificates and invoices necessary to perform the procedures identified below. The auditor shall perform the procedures identified below.

(i) The auditor shall agree the purchases by facility name, fuel or technology type, certificate and kilowatt hours from the information used to prepare Schedule 3 to Schedule 3. The auditor shall also test the mathematical accuracy of Schedule 3, noting any exceptions.

(ii) The auditor shall select a sample of purchases from the information used to prepare Schedule 3 using the sampling guidelines discussed in subsection (b)(2), and for each purchase perform the following procedures, noting any exceptions:

a. Agree the generation facility ID number certificate number and the fuel type from the invoice to the information used to prepare Schedule 3.

b. For facilities owned by the retail provider, agree the kilowatt hours with meter readings made by an independent third party, or confirm that the retail providers has another internal auditing procedure that assures facility production agrees to production claims.

c. Agree the date of generation from the invoice to the reporting period of the information used to prepare Schedule 3.

(B) Sales: The auditor shall review the information used to prepare Schedule 4. In addition, the auditor shall review copies of billing statements necessary to perform the procedures identified below. The auditor shall perform the procedures identified below.

(i) The auditor shall agree the sales by purchaser and by fuel or technology type, and kilowatt hours from the information used to prepare Schedule 4 to Schedule 4. The auditor shall also test the mathematical accuracy of Schedule 4, noting any exceptions.

(ii) The auditor shall select a sample of purchases from the information used to prepare Schedule 3 using the sampling guidelines discussed in subsection (b)(2), and for each sales compare kilowatt hours of fuel type and product to a copy of the billing statement and any other record, noting any exceptions.